

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)**

RENETTO, LLC,

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Plaintiff,

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v.

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Civil Action No. 1:07CV789A

**PROFESSIONAL SALES AND
MARKETING GROUP, INC.,**

*

*

Defendant.

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DEFENDANT'S REPORT AND PROPOSED DISCOVERY PLAN

Pursuant to Federal Rule of Civil Procedure 26(f) and Rule 26(A) of the Local Rules of the United States District Court for the Eastern District of Virginia, the Defendant submits this report and proposes the following with respect to discovery in this matter:

1. Rule 26(f) Conference: As required by Fed. R. Civ. P. 26(f), the parties conferred on October 30, 2007. The parties could not agree on whether defenses and claims were required to be included; as a result, Defendant submits this independent report.

2. Defendant's Defenses and Claims: Defendant Professional Sales and Marketing Group, Inc. ("PSM") submits that it has both claims and defenses to Plaintiff Renetto, LLC's ("Renetto") complaint. The essence of PSM's claims and defenses were asserted by PSM on June 13, 2007 in its action filed in Circuit Court of Cook County, Illinois, Case No. 07CH15657. Renetto removed that case to the United States District Court for the Northern District of Illinois and PSM filed an Amended Complaint on October 2, 2007. It is anticipated that the injunction, declaratory judgment, breach of contract, and other claims currently pending in federal court in Illinois, may need to be asserted in the action pending in the United States District Court for the

Eastern District of Virginia, and the defendant in the Illinois federal court action, Swimways, Corp. may need to be included in the instant actions.

These possible anticipated claims against Renetto by PSM include the following: breach of contract, breach of fiduciary duty, injunction, declaratory judgment, and quantum meruit. The possible anticipated claims by PSM against new third party defendant Swimways Corp., would be the following: tortious interference with contract, tortious interference with business expectancy, injunction, declaratory judgment, and quantum meruit.

3. Settlement: The parties have engaged in extensive settlement discussions to date and have been ordered to further in-chamber settlement negotiations before Magistrate Judge Arlander Keys in the action pending in Illinois Federal Court. At this time, it is not likely that the parties will settle this matter prior to trial.

4. Initial Disclosures: As required by Fed. R. Civ. P. 26(a)(1), initial disclosures will be exchanged between the parties on or before November 5, 2007.

5. Discovery Schedule: Defendant submits that if this action continues in Virginia (this action currently is subject to Defendant's Motion to Dismiss or Change Venue), Defendant may implead a third party as noted in Paragraph 3 above, and the discovery date of February 15, 2007 will have to be modified or adjusted to allow sufficient time for discovery against this third party.

6. Expert Disclosures: The parties have agreed to the following dates for expert disclosures, if any, under Fed. R. Civ. P. 26(a)(2) and Local Rule 26(D)(2):

- a. Plaintiff's Initial Disclosures: December 17, 2007.
- b. Defendant's Initial Disclosures: January 16, 2007.
- c. Plaintiff's Rebuttal: January 30, 2007.

7. Subjects of Discovery: The parties agree that discovery relevant to the claims and defenses contained in the pleadings will be appropriate, subject to all objections permitted by applicable rules.

8. Trial by Magistrate: The parties do not consent to trial by a magistrate judge.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing pleading was served by () U.S. Mail, postage prepaid; () fax; () Federal Express; **(X) Electronic Notification**; and/or () hand delivery this 31st day of October, 2007, to:

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